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Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

Sixth session
Geneva, 2–5 June 2014
Items 3 (a) and 11 (a) of the provisional agenda

Outstanding issues: draft decisions by the Meeting of the Parties to the Convention

Adoption of decisions: decisions to be taken by the Meeting of the Parties to the Convention

Draft decisions by the Meeting of the Parties to the Convention

Proposal by the Bureau

Summary

The draft decisions contained in the present document were prepared by the Bureau of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context, with the support of the Convention secretariat, taking into account the comments made by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its third meeting (Geneva, 11–15 November 2013).

The list of proposed corrections the Convention in the annex to draft decision VI/6 was initially prepared by an ad hoc task force to the Working Group. Following consultation of the national focal points to the Convention, the Bureau reviewed and finalized the list taking into account the comments received.

The Meeting of the Parties to the Convention is expected to review the text of the draft decisions contained in the present document and agree on their adoption.

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Decision VI/1

[*to be considered by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its sixth session*]

Reporting and review of implementation

The Meeting of the Parties to the Convention,

Recalling its decisions III/1, IV/1 and V/3 on the review of implementation, and decision V/7 on reporting and the review of implementation,

Recalling also article 14 bis of the Convention, as adopted by its decision III/7, which places a legal obligation on Parties to report on their implementation of the Convention,

Recognizing once again that regular reporting by each Party provides important information that facilitates the review of compliance under the Convention and thereby contributes to the work of the Implementation Committee,

Having analysed the reports provided by Parties in response to the questionnaire for the reporting system,

Expressing concern that the following States Parties that were Parties to the Convention during the period under review have not responded to the questionnaire on time: Bosnia and Herzegovina, Ireland, Luxembourg and the United Kingdom of Great Britain and Northern Ireland,

Strongly emphasizing the importance of the timely submission of reports,

1. *Welcomes* the reports by Parties on their implementation, which have been made available on the website of the Convention;

2. *Adopts* the Fourth Review of Implementation of the Convention (ECE/MP.EIA/2014/3) and requests the secretariat to arrange for its publication in an appropriate form;

3. *Notes* the findings of the Fourth Review of Implementation, including the following possible weaknesses or shortcomings in the Convention's implementation by Parties:

(a) A frequent lack of definition in national legislation of several terms used in the Convention, such as "promptly", "due account" or "reasonably obtainable";

(b) A failure by some Parties to recognize that, in accordance with article 3, paragraph 8, and article 4, paragraph 2, the "concerned Parties" are both responsible for ensuring opportunities for public participation;

(c) A failure to recognize that article 5 provides for transboundary consultations distinct from article 4, paragraph 2;

(d) A frequent lack of definition of the "final decision" (art. 6) and of specification of its required content;

(e) A lack of experience in carrying out post-project analysis (art. 7);

(f) A continuing need for bilateral and multilateral agreements or other arrangements, particularly to address differences between Parties in: the content of the notification; language; time frames; how to proceed when there is no response to a

notification or if there is disagreement about the need for notification; the interpretation of various terms (such as "due account", "promptly", "reasonably obtainable", etc.); and the requirement for post-project analysis;

(g) Confusion among the Parties about the respective functions of the point of contact for notification and the focal point for administrative matters;

(h) A continuing need to further improve awareness of and capacity in the implementation of the Convention's obligations by the competent authorities at the national and regional levels, environmental impact assessment experts and practitioners, civil society, investors and academics;

4. *Requests* the secretariat to bring to the attention of the Implementation Committee general and specific compliance issues identified in the Fourth Review of Implementation of the Convention, and requests the Implementation Committee to take these into account in its work;

5. *Urges* Bosnia and Herzegovina, Ireland, Luxembourg and the United Kingdom to provide the overdue responses to the questionnaire, and requests the secretariat to make them available on the Convention website;

6. *Requests* the Implementation Committee to revise and simplify the current questionnaire and to provide a modified version of the questionnaire on the implementation of the Convention during the period 2013–2015, for consideration by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment and for circulation by the secretariat thereafter;

7. *Further requests* the Implementation Committee to take into account the suggestions provided by Parties for improving the questionnaire and the report;

8. *Decides* that Parties shall complete the modified questionnaire as a report on their implementation of the Convention during the period 2013–2015, noting the obligation to report arising from article 14 bis of the Convention, as adopted by its decision III/7, and that a failure to report on implementation might be a compliance matter to be considered by the Implementation Committee;

9. *Urges* Parties to report by the deadline to be agreed by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment;

10. *Requests* the secretariat to put the project lists included in the answers to the questionnaire on the website of the Convention, unless the responding Party does not agree;

11. *Further decides* that a draft review of implementation of the Convention during the period 2013–2015 based on the reports by Parties will be presented at the seventh session of Meeting of the Parties of the Convention, and that the workplan shall reflect the elements required to prepare the draft review;

12. *Also requests* the secretariat to post the review of implementation of the Convention and national reports on the website of the Convention in the languages in which they are available.

Decision VI/6

[*to be considered by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its sixth session*]

Aligning the authentic language versions of the Convention

The Meeting of the Parties to the Convention,

Recalling decision II/10 of the Meeting of the Parties to the Convention on the review of the Convention,

Aware that discrepancies between the three authentic language versions of the Convention have been identified in the course of the implementation of the Convention,

Concerned that such discrepancies might lead to different interpretations and inconsistencies in the application of the Convention by its Parties,

Determined to ensure the full alignment of the three authentic texts of the Convention,

Having considered the outcome of the review of the text of the three authentic language versions of the Convention conducted by a team of editors of the United Nations, listing discrepancies between these three versions,

Having also considered the additional guidance provided by the Treaty Section of the United Nations Office for Legal Affairs,

Additionally having considered the possible further discrepancies observed by Belarus and the non-governmental organization European ECO Forum between the English and the Russian versions of the Convention, and by Switzerland between the English and French versions of the Convention,

Further having considered the work by the ad hoc task force established by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment to review the discrepancies identified and to distinguish between technical errors to be addressed through a correction procedure and possible substantive discrepancies to be addressed through the amendment procedure, set out in article 14 of the Convention;

1. *Agrees* that discrepancies identified between the three authentic language versions of the Convention are of a technical nature;

2. *Proposes* that these technical discrepancies should be addressed through a correction procedure;

3. *Requests* the secretariat to submit the list of proposed corrections to the Convention, as annexed to this decision, to the Secretary-General of the United Nations as the depositary of the Convention with a view to their being addressed accordingly.

Annex

List of proposed corrections to the Convention[1]

1. **Preamble, fourth paragraph, Russian text**

   For значительных вредных видов воздействий *read* значительного вредного воздействия

2. **Preamble, last paragraph, French text**

   For Bergen, (Norvège) *read* Bergen (Norvège)

3. **Article 1, paragraph (iv), Russian text**

   For в применении методов оценки *read* в оценке

4. **Article 1, paragraph (iv), French text**

   For en application à *read* en application de

5. **Article 2, paragraph 1, French text**

   For combattre l'impact *read* maîtriser l'impact

6. **Article 2, paragraph 1, Russian text**

   For воздействия в результате *read* воздействия на окружающую среду в результате

7. **Article 2, paragraph 2, Russian text**

   For общественности, и подготовку документации *read* общественности и подготовки документации

8. **Article 2, paragraph 6, Russian text**

   For затронуты *read* подвергнуты воздействию

9. **Article 2, paragraph 8, Russian text**

   For интересам национальной безопасности *read* национальной безопасности

10. **Article 3, paragraph 1, French text**

    For suffisantes *read* adéquates

11. **Article 3, paragraph 2 (a), Russian text**

    For информацию *read* Информацию

12. **Article 3, paragraph 2 (b), English text**

    For The nature *read* Information on the nature

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[1] For the authentic language versions of the Convention, see the Certified True Copy, available from https://treaties.un.org/doc/Treaties/1991/02/19910225%2008-29%20PM/Ch_XXVII_04p.pdf.

13. **Article 3, paragraph 2 (b), Russian text**

For информацию *read* Информацию

14. **Article 3, paragraph 2 (c), Russian text**

For указание *read* Указание

15. **Article 3, paragraph 4, first sentence, English text**

For paragraphs 5, 6, 7 and 8 *read* paragraphs 5 to 8

16. **Article 3, paragraph 4, first sentence, French text**

For paragraphes 5, 6, 7 et 8 *read* paragraphes 5 à 8

17. **Article 3, paragraph 4, first sentence, Russian text**

For пунктов 5, 6, 7 и 8 *read* пунктов 5–8

18. **Article 3, paragraph 6, first sentence, English text**

For An affected Party *read* The affected Party

19. **Article 3, paragraph 7, third sentence, French text**

For elles peuvent, l'une ou l'autre, soumettre *read* l'une quelconque d'entre elles peut soumettre

20. **Article 3, paragraph 8, Russian text**

For затронуты *read* подвергнуты воздействию

21. **Article 4, paragraph 2, first sentence, French text**

For à la Partie touchée, par l'intermédiaire, selon qu'il convient, d'un organe commun *read* à la Partie touchée et, selon qu'il convient, par l'intermédiaire d'un organe commun

22. **Article 4, paragraph 2, first sentence, Russian text**

For затрагиваемой Стороне соответствующим образом через совместный орган *read* затрагиваемой Стороне, при необходимости, через совместный орган

23. **Article 5 (a), Russian text**

For альтернативу непринятия никаких действий *read* вариант отказа от деятельности

24. **Article 5, last paragraph, second sentence, Russian text**

For там, где таковой *read* там, если таковой

25. **Article 6, paragraph 1, Russian text**

For консультаций, указанных в Статье 5 *read* указанных в Статье 5 консультаций

26. **Article 7, paragraph 1, first sentence, Russian text**

For осуществляется *read* осуществлялась

27. **Article 8, second sentence, French text**

For dispositions fondamentales énumérées *read* éléments énumérés

28. **Article 11, paragraph 1, first sentence, English text**

For Senior Advisers to ECE Governments on Environmental and Water Problems *read* Senior Advisers to Governments of the Economic Commission for Europe on Environmental and Water Problems

29. **Article 11, paragraph 1, first sentence, French text**

For des Conseillers des gouvernements des pays de la CEE pour les problèmes de l'environnement et de l'eau *read* des Conseillers des gouvernements des pays de la Commission économique pour l'Europe pour les problèmes de l'environnement et de l'eau

30. **Article 11, paragraph 1, first sentence, Russian text**

For советников правительств стран ЕЭК по проблемам окружающей среды и водных *read* советников правительств стран Европейской экономической комиссий по проблемам окружающей среды и водных ресурсов

31. **Article 11, paragraph 2 (c), French text**

For de comités scientifiques et d'organismes internationaux *read* d'organismes internationaux et de comités scientifiques

32. **Article 14, paragraph 4, first sentence, Russian text**

For доводит до сведения всех Сторон *read* направляет всем Сторонам

33. **Article 15, paragraph 1, Russian text**

For способом по своему усмотрению *read* способом, приемлемым для сторон спора

34. **Article 16, Russian text**

For передали *read* включая

35. **Article 17, paragraph 1, Russian text**

For его государствами *read* ее государствами

36. **Appendix I, subparagraph (a) of the footnote to paragraph 7, Russian text**

For участков на временной *read* участков или на временной

37. **Appendix I, pararaph 9, Russian text**

For допускающих *read* допускающие

38. **Appendix I, item 10, Russian text**

For Установки *read* Сооружения

39. **Appendix II, subparagraph (b), French text**

For des solutions de remplacement (par exemple en ce qui concerne le lieu d'implantation ou la technologie) *read* des solutions de remplacement (par exemple en ce qui concerne le lieu d'implantation ou la technologie) de l'activité proposée

40. Appendix II, subparagraph (d), Russian text

For описание возможных видов воздействия на окружающую среду планируемой деятельности и ее альтернативных вариантов и оценка их масштабов *read* описание возможного воздействия на окружающую среду планируемой деятельности и ее альтернативных вариантов и оценка его значительности

41. Appendix II, subparagraph (e), Russian text

For описание предохранительных мер *read* описание мер по уменьшению воздействия

42. Appendix III, title, Russian text

For экологического значения *read* экологической значительности

43. Appendix III, paragraph 1, Russian text

For изучить *read* рассмотреть

44. Appendix III, paragraph 1 (b), English text

For under the Ramsar Convention *read* under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)

45. Appendix III, paragraph 1 (b), French text

For la Convention de Ramsar *read* la Convention relative aux zones humides d'importance internationale particulièrement comme habitats des oiseaux d'eau (Convention de Ramsar)

46. Appendix III, paragraph 1 (b), Russian text

For Рамсарской конвенции *read* Конвенции о водно-болотных угодьях, имеющих международное значение главным образом в качестве местообитаний водоплавающих птиц (Рамсарская конвенция)

47. Appendix III, paragraph 1 (c), Russian text

For виды деятельности, оказывающие особенно сложное и потенциально вредное воздействие, включая такие виды воздействия, которые влекут за собой серьезные последствия для людей *read* виды деятельности, имеющие особенно сложные и потенциально вредные последствия, включая такие, которые влекут за собой серьезные последствия для людей

48. Appendix IV, paragraph 4, third sentence, Russian text

For председатель соответственно информирует *read* председатель информирует

49. Appendix IV, paragraph 12, second sentence, French text

For est assorti, éventuellement, de l'exposé des opinions dissidentes *read* est assorti de l'exposé d'éventuelles opinions dissidentes

50. Appendix V, first sentence, French text

For a notamment pour objet *read* a pour objet

51. **Appendix VI, paragraph 1, French text**

For le champ *read* le champ d'application

52. **Appendix VI, paragraph 2 (f), Russian text**

For значение *read* значительность

53. **Appendix VII, paragraph 1, first sentence, Russian text**

For Статьи 5 *read* Статьи 15

Draft decision IV/7

[*to be considered by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its sixth session*]

Application of the Convention to nuclear energy-related activities

The Meeting of the Parties to the Convention,

Recalling its decision V/9–I/9 on adoption of the workplan up to the fifth meeting of the Parties,

Having considered the outcome of the workshop on the long-range impacts of nuclear energy-related activities foreseen in the workplan (ECE/MP.EIA/WG.2/2013/7, annex II),

Having also considered the outcome of the panel discussions on nuclear energy-related projects likely to have a significant adverse transboundary impact held at the fifth meeting of the Parties to the Convention (ECE/MP.EIA/15, paras. 44–47) and the background document prepared by the secretariat on the topic (ECE/MP.EIA/2011/5),

Additionally having considered the outcome of the discussions held on nuclear-energy related activities under the auspices of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (ECE/MP.PP/WG.1/2013/6, paras. 22–73),[2]

Aware that nuclear energy-related activities are being carried out or planned in the region,

Also aware of the opinions, findings and recommendations of the Implementation Committee under the Convention and the Protocol on Strategic Environmental Assessment regarding the application of the Convention to planned nuclear energy-related activities,

Recognizing that it is essential for Parties to meet fully their obligations deriving from the Convention and therefore urging them all to do so,

1. *Notes* the main findings of the workshop, which state, inter alia, that:

(a) Nuclear energy-related activities imply special challenges due to, e.g., the potentially wide scope of severe impacts, great public concern and national interests;

[2] Available from http://www.unece.org/env/pp/aarhus/wgp16.html.

(b) There was a major benefit in having an open discussion and sharing experiences, which showed the diversity of different practices in applying the Convention to such activities and facilitated learning from each other;

(c) Mutual understanding of other Parties' needs gives good ground for their better cooperation with a view to fully applying the Convention;

(d) Further discussion is needed on identifying good practice in applying the Convention to nuclear energy-related activities;

2. *Welcomes* the practical experience presented at the workshop by countries and organizations within the region and beyond;

3. *Recognizes* the need for good practice recommendations to assist countries in the practical application of the Convention to nuclear energy-related activities;

4. *Proposes* to include in the Convention workplan the elaboration, with the assistance of a consultant, of good practice recommendations to support the application of the Convention to nuclear energy-related activities;

5. *Decides* that the recommendations should build on document ECE/MP.EIA/2011/5 on the application of the Convention to nuclear energy-related activities;

6. *Establishes* an editorial group with a mandate to oversee the development of the draft recommendations;

7. *Decides* that the ad hoc editorial group should work electronically and finalize the draft recommendations for consideration by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment before their submission for adoption to the Meeting of the Parties to the Convention at its seventh session;

8. *Invites* Parties and non-Parties and other stakeholders to lead and contribute to work under this activity, including through providing further examples of practical experience for inclusion in the recommendations which the secretariat shall make available on the Convention website.

Draft decision VI/8

[*to be considered by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its sixth session*]

General guidance on enhancing consistency between the Convention and environmental impact assessment within the framework of State ecological expertise in countries of Eastern Europe, the Caucasus and Central Asia

The Meeting of the Parties to the Convention,

Recalling decision V/9–I/9 of the Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment on the adoption of the workplan,

Recognizing that in the past decades Parties and non-Parties to the Convention in Eastern Europe, the Caucasus and Central Asia have significantly developed their

legislation on environmental impact assessment, in line with their obligations under the Convention,

Aware that the national legislation and systems in countries of the subregion share many commonalities, but also present distinctive features and represent various degrees of development,

Wishing to assist Parties to the Convention in Eastern Europe, the Caucasus and Central Asia in complying fully with their obligations under the Convention, and to promote the effective application of the Convention in the subregion,

Recognizing that compliance concerns both legal implementation and practical application,

1. *Endorses* the general guidance on enhancing consistency between the Convention and environmental impact assessment within State ecological expertise in Countries of Eastern Europe, the Caucasus and Central Asia (Guidance), as contained in document ECE/MP.EIA/2014/2;

2. *Recommends* that the Parties in Eastern Europe, the Caucasus and Central Asia take into account the contents of the Guidance when implementing and applying the Convention;

3. *Calls on* these Parties to distribute the Guidance to authorities and relevant stakeholders;

4. *Proposes* that the Guidance is used in the capacity-building activities included in the workplan.

Draft decision VI/9

[*to be considered by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its sixth session*]

Good practice on communication, cooperation and conflict resolution

The Meeting of the Parties to the Convention,

Recognizing that the Convention is a key instrument for promoting communication, exchange of information and consultations, involving also public participation, between its Parties, in line with its provisions,

Wishing to promote and facilitate the effective application of the Convention by all Parties to the Convention,

Having considered the outcome of the seminar on good practice on communication, cooperation and conflict resolution organized by the European Union, the International Association for Impact Assessment and the Chair of the Implementation Committee under the Convention and the Protocol (see ECE/MP.EIA/WG.2/2013/7, annex I),

1. *Endorses* the general conclusion of the seminar that:

(a) There were several examples of good practice on communication, cooperation and conflict resolution from which lessons could be learned; however, resolution of specific cases called for individual approaches;

(b) Cooperation between countries on environmental issues was possible independently of whether diplomatic relations existed;

(c) A series of confidence-building steps at the technical level, with due respect to the susceptibility of the countries involved and the sensitivity of each individual case, could be instrumental to commence the practical collaboration;

(d) Repercussions of conflicts could spread well beyond the borders of the countries directly involved, and eventually impact other countries;

(e) For conflicts that were resource-intensive, regardless of whether a country was involved directly or indirectly, all parties would benefit from progress towards cooperation;

2. *Encourages* Parties to take into account the outcomes of the seminar when applying the Convention.